

1 \$35,000.COM

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8 Attorneys for United States of America

**FILED**  
DISTRICT COURT OF GUAM  
**SEP 10 2002**  
MARY L. M. MORAN  
CLERK OF COURT

9  
10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE TERRITORY OF GUAM**

12  
13 UNITED STATES OF AMERICA, )  
14 )  
15 Plaintiff, )  
16 )  
17 vs. )  
18 )  
19 \$35,000.00 UNITED STATES )  
CURRENCY, )  
20 Defendant. )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )

CIVIL CASE NO. **02-00026**

**VERIFIED COMPLAINT OF  
FORFEITURE**

20 COMES NOW the plaintiff United States of America, by and through its attorneys,  
21 Frederick A. Black, United States Attorney, and Karon V. Johnson, Assistant United States  
22 Attorney, and respectfully states as follows:

24 1. This is a civil action in rem brought to enforce the provision of 21 U.S.C. § 881(a)(6)  
25 for the forfeiture of United States currency which was used or intended to be used n exchange for  
26 controlled substances or represents proceeds of trafficking in controlled substances or was used  
27

1 or intended to be used to facilitate a violation of Title II of the Controlled Substances Act, 21  
2 U.S.C. §§ 801 et seq.

3 2. This court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1355.

4 3. The defendant is \$35,000.00 in United States currency.

5 4. The defendant \$35,000.00 United States currency was seized while located within the  
6 jurisdiction of this Court.

7 5. The facts and circumstances supporting the seizure and forfeiture of the defendant  
8 currency are contained in the Declaration of DEA Special Agent Jon Y. Anderson, attached  
9 hereto and incorporated herein as Exhibit A.

10 6. On June 16, 2002, a claim was tendered by claimant Charles Kirtley.

11 7. The defendant \$35,000.00 United States currency was used, or intended to be used, in  
12 exchange for controlled substances, or represents proceeds of trafficking in controlled substances  
13 or was used or intended to be used to facilitate a violation of Title II of the Controlled Substances  
14 Act, 21 U.S.C. § 801, et seq., and is therefore subject to forfeiture to the United States of  
15 America pursuant to 21 U.S.C. § 881(a)(6).

16 **WHEREFORE**, the United States of America prays that process of warrant in rem issue  
17 for the arrest of the defendant \$35,000.00 United States currency; that due notice be given to all  
18 parties to appear and show cause why the forfeiture should not be decreed; that judgment be  
19 entered declaring the defendant \$35,000.00 United States currency be forfeited to the United  
20 States of America for disposition according to law; and that the United States of America be

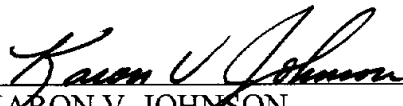
21 \\\n

22 \\\n

1 granted such other relief as this Court may deem just and proper, together with the costs and  
2 disbursements of this action.

3 RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of September, 2002.

4  
5 FREDERICK A. BLACK  
6 United States Attorney  
7 Districts of Guam and CNMI

8 By:   
9 KARON V. JOHNSON  
10 Assistant U.S. Attorney  
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DECLARATION  
(Exhibit A)

I, JONATHAN Y. ANDERSON, being first duly sworn, do depose and say:

1. That I am a Special Agent with the Drug Enforcement Administration (DEA) and have been so employed since September, 1991. I have been assigned to the Guam Resident Agency since January 10, 1992. I have been assigned to investigate alleged violations of Federal narcotics laws. During the course of my employment I have attended seminars and conferences concentrating solely on the topic of forfeitures surrounding the trafficking in controlled substances, and have been personally responsible for the seizure and forfeiture of money, vehicles, and other valuables which were the proceeds of Federal drug violations. I have participated in numerous investigations concerning the manufacture of marijuana, and have extensive training and experience in "indoor grows" of marijuana. During the course of my employment, I have investigated numerous violations of Federal drug laws and money laundering violations.

2. This affidavit is made in support of the Complaint to forfeit a total of \$35,000.00 in United States Currency, which was located at the residence of Michael C. Kirtley at 313 Apache Drive, Talofofo, Guam, on December 1, 2000. The defendant \$35,000.00 United States Currency was discovered during the execution of a search warrant at that address. The search began about 8:45 p.m. and was based on probable cause to believe that Michael C. Kirtley was using the residence to manufacture marijuana. During the execution of the search, DEA agents and other assisting law enforcement officers seized the following: 126 potted marijuana plants ranging from three to five feet in height; a gallon size Zip Loc bag contained dried marijuana; a programmable timer, a wall thermometer, power transformers, blowers, Ecotechnics clear tubes

1 with light fixtures and bulbs; a water pump, a Prolock vacuum sealer and a Chaus triple beam  
2 scale. Based upon my training and experience, I believe that marijuana was being cultivated in  
3 this residence.

4  
5 3. Throughout the residence, agents found various documents in the name of Charles C.  
6 Kirtley, including a Hawaii drivers license, Government of Guam check stub, blue name tag, and  
7 a U.S. passport.

8 4. Agents discovered a locked safe on the first floor of the residence. The safe was  
9 found to contain: seven firearms, miscellaneous items of gold jewelry; ziplock bags and glass  
10 vials; a money sack; a calculator; money transaction records which I recognized to concern drug  
11 trafficking; and the defendant \$35,000.00 United States currency. A photograph of the interior of  
12 the safe, with the above-listed items, is attached hereto as Exhibit B. The denominations of the  
13 currency was as follows: 425 \$20 bills, 208 \$50 bills, and 161 \$100 bills. In my experience, a  
14 large amount of currency in such denominations is consistent with proceeds used in and for drug  
15 trafficking.  
16

17  
18 5. Subsequently, I talked to Manuel Paulino, the owner of 313 Apache Drive, Talafofo,  
19 who told me that Michael C. Kirtley had rented that residence for about a year prior to execution  
20 of the search warrant.

21 6. Sometime after December 1, 2000, Michael C. Kirtley committed suicide. Prior to his  
22 death, he wrote a letter confessing to, and defending, his involvement with marijuana. That letter  
23 is attached hereto as Exhibit C.

24  
25 7. Based on these facts, there is probable cause to believe that the defendant \$35,000.00  
26 United States Currency is the proceeds of drug sales and drug trafficking, and is therefore subject  
27

1 to seizure and forfeiture to the United States Government pursuant to 18 U.S.C. § 981(b) and 21  
2 U.S.C. § 881(a)(6).

3 8. I have read the contents of the foregoing Complaint for Forfeiture, and this  
4 Declaration, attached to the Complaint as Exhibit A. I declare under penalty of perjury that the  
5 statements contained therein are true and correct to the best of my knowledge and belief.  
6

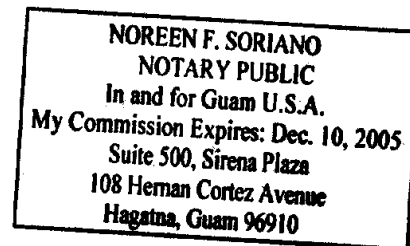
7 Dated: 9-6-02

8  
9 

10 JONATHAN Y. ANDERSON  
11 Special Agent, DEA

12  
13 SUBSCRIBED AND SWORN TO BEFORE ME on this 6<sup>th</sup> day of September, 2002.

14  
15   
16 Notary Public





*EXHIBIT B*

PHOTOGRAPHED BY: TFA RICHARD FLORES  
LOCATION: # 313 PACHA DRIVE, TALAFOFO, GUAM  
DATE TAKEN: DECEMBER 01, 2000

DEAR DELBA,

I'M SO VERY SORRY  
THAT IT HAS COME TO THIS,  
I IMAGINED SO MUCH  
MORE FOR ALL 3 OF US.

I ONLY WANTED TO GET  
AHEAD AND MAKE MY  
LIFE A LITTLE MORE  
TOLERABLE AND ENJOYABLE  
PLEASE TAKE COMFORT  
IN THE FACT THAT I  
AM IN A BETTER  
PLACE NOW, SOMEWHERE  
WHERE I WANT

JUDGED AND TOLD WHAT  
NOT TO DO. TELL MY  
CHILD THAT I WAS  
A GOOD PERSON WHO  
NEVER HURT ANYONE  
ELSE. I DID MY JOB  
AND I CONTRIBUTED  
TO SOCIETY MORE THAN  
MOST. I WAS NEVER  
STOMED DURING MY  
DUTY. AND I  
TREATED EVERYONE  
FAIRLY AND EQUALLY.

THIS IS AN ADMISSION  
OF MY GUILT,  
AS I ACTED SOLELY  
AND COMPLETELY BY  
MYSELF WITH NO  
KNOWLEDGE OR BENEFIT  
TO ANY OTHERS. I  
BEAR COMPLETE ~~RESPONSIBILITY~~  
RESPONSIBILITY FOR MY  
ACTIONS AND LEAVE  
AS MY ONLY DEFENSE  
THAT I

I LOVE TO SMOKE  
MARIJUANA I ENJOY  
GETTING HIGH, I  
DON'T BELIEVE IT IS  
MORALLY WRONG OR  
UNJUST TO SMOKE  
A COMPLETELY NATURAL  
UNPROCESSED PLANT OF  
THE EARTH. GOD

GAVE US MARIJUANA  
HE GAVE IT FOR

A REASON. MARIJUANA  
IS NO MORE A DRUG  
THAN CIGARETTES OR  
ALCOHOL. YOU CAN'T DIE  
FROM MARIJUANA BUT  
YOU CAN FROM ALCOHOL  
AND CIGARETTES.

(EXCEPT IN MY CASE)  
WHERE THE LAWS  
AND JUDGMENT  
TOOK MY LIFE.

~~Michael C. Kirtley~~  
MICHAEL C. KIRTLEY

DELISA,

TAKE CARE OF YOURSELF  
AND PLEASE GO ON

WITH YOUR LIFE. ALL

I ASK IS THAT YOU  
GIVE OUR BABY MY  
LAST NAME. I

LOVE YOU ALWAYS

AND I LOVE MY  
BABY!

I LOVE MY  
WHOLE FAMILY, DON'T  
BLAME YOURSELVES

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the Purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I (a) PLAINTIFFS

UNITED STATES OF AMERICA

## (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

\$35,000.00 UNITED STATES CURRENCY

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

02-00026

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

## (c) ATTORNEYS (FIRMS NAME, ADDRESS, AND TELEPHONE NUMBER)

KARON V. JOHNSON, Assist U.S. Attorney

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

X 1 U.S. Government  
Plaintiff  
2 U.S. Government  
Defendant

☐ 3 Federal Question  
(U.S. Government Not a Party)  
☐ 4 Diversity  
(Indicate Citizen of Parties in item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State ☐ 1 ☐ 1Citizen of Another State ☐ 2 ☐ 2Citizen or Subject of a Foreign Country ☐ 3 ☐ 3Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgement <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suit <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input checked="" type="checkbox"/> 620 Food & Drug <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black L. (405(g)) <input type="checkbox"/> 863 DIWC (405(g)) <input type="checkbox"/> 863 DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 880 Environmental Matters <input type="checkbox"/> 881 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Equal Employment Opportunity Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

RECEIVED

SEP 10 2002

DISTRICT COURT OF GUAM  
HAGATNA, GUAM

## V. ORIGIN

(PLACE AN X IN ONE BOX ONLY) Transferred from

Appeal to District

X 1 Original

2 Removed from

☐ 3 Remanded from☐ 4 Reinstated or☐ 5 another district☐ 6 Multidistrict☐ 7 Judge from

Proceeding

State Court

Appellate Court

Reopened

(Specify)

Litigation

Magistrate Judgement

## VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.) CWA 33 U.S.C. § 1319

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION

DEMAND \$

Check YES only if demanded in complaint:

☐ UNDER F.R.C.P. 23JURY DEMAND: ☐ YES X NO

## VIII. RELATED CASE(S) (See instructions):

IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD UNITED STATES DISTRICT COURT DATE

FOR OFFICE USE ONLY  
RECEIPT #

Case 02-cv-00026

Document 1

Filed 09/10/2002

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ORIGINAL